

RESOLUTION NO. 74300

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING RESOLUTION NO. 69200, AS AMENDED, TO INCREASE FROM \$450,000,000 TO \$600,000,000 THE MAXIMUM PRINCIPAL AMOUNT OF COMMERCIAL PAPER NOTES THAT MAY BE OUTSTANDING AT ANY ONE TIME UNDER RESOLUTION NO. 69200, AS AMENDED; AND TO PROVIDE FOR THE ISSUANCE OF SUCH NOTES TO FINANCE AND REFINANCE PROJECT COSTS AND CAPITALIZED INTEREST ASSOCIATED WITH IMPLEMENTING THE AIRPORT MASTER PLAN AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT, INCLUDING REFUNDING ALL OF THE OUTSTANDING SERIES 2004A AND SERIES 2004B BONDS AND TO REFUND OR TO PAY DEBT SERVICE ON OTHER OBLIGATIONS OF THE CITY ISSUED TO PAY SUCH COSTS; AND DELEGATING TO THE DIRECTOR OF FINANCE AND TO OTHER OFFICERS OF THE CITY AUTHORIZATION TO ESTABLISH TERMS AND CONDITIONS FOR THE ISSUANCE AND PAYMENT OF SAID COMMERCIAL PAPER NOTES, TO EFFECT THE REFUNDING OF THE SERIES 2004A BONDS AND THE SERIES 2004B BONDS AND TO TAKE OTHER NECESSARY ACTIONS AND TO PREPARE, EXECUTE AND DELIVER OTHER NECESSARY DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, the City of San José (the “City”) is authorized by its charter to issue notes from time to time for the purpose of financing and refinancing capital project costs in connection with the Norman Y. Mineta San José International Airport (the “Airport”) and to refund such notes; and

WHEREAS, on October 2, 1984, the City Council of the City (the “City Council”) adopted Resolution No. 57794 providing for the issuance of obligations secured by and payable from the revenues of the Airport Enterprise, as defined in said resolution (said resolution, as supplemented and amended from time to time, the “Master Bond Resolution”); and

WHEREAS, the City Council adopted Resolution No. 69199 (the “Tenth Supplemental Resolution”), amending and supplementing the Master Bond Resolution to provide for the issuance of obligations secured by and payable from the revenues of the Airport Enterprise on a basis and secured by a lien that is subordinate to the lien of the Airport revenue bonds issued and outstanding under the Master Bond Resolution; and

WHEREAS, the City Council adopted Resolution No. 69200 authorizing the issuance of not to exceed \$100,000,000 of the City’s San José International Airport Subordinated Commercial Paper Notes (the “Notes”) and has heretofore authorized the issuance of Series A Notes (Non-AMT), Series B Notes (AMT) and Series C Notes (Taxable); and

WHEREAS, the City Council adopted Resolution No. 70532 amending and restating the Master Bond Resolution in the form of a Master Trust Agreement dated as of July 1, 2001, between the City and The Bank of New York Trust Company, N.A. (successor to BNY Western Trust Company), as trustee (the "Trustee"), and the City and the Trustee have subsequently entered into amendments and supplements to the Master Trust Agreement (collectively, the "Master Trust Agreement"); and

WHEREAS, the City Council adopted Resolution No. 73252 amending Resolution No. 69200 to increase the maximum authorized principal amount of Notes that may be issued and outstanding pursuant to said Resolution from \$100,000,000 to \$200,000,000; and

WHEREAS, the City Council adopted Resolution No. 73589 amending Resolution No. 69200 to increase the maximum authorized principal amount of Notes that may be issued and outstanding pursuant to said Resolution from \$200,000,000 to \$450,000,000; and

WHEREAS, the City Council adopted Resolution No. 74116 amending Resolution No. 69200 to delegate authority to the Director of Finance or the Director of Finance's authorized designee with respect to the Second Amended and Restated Letter of Credit and Reimbursement Agreement between the City and JPMorgan Chase Bank, National Association, individually and as agent and Bank of America, N.A., and Dexia Credit Local, acting through its New York Branch; and

WHEREAS, the City has determined that increasing the maximum authorized principal amount of Notes that may be issued and outstanding at any one time from \$450,000,000 to \$600,000,000, providing for the issuance of Series D Notes (Non-AMT), Series E Notes (AMT) and Series F Notes (Taxable) in addition to the Series A, Series B and Series C Notes and applying a portion of the proceeds of the Notes to refund the City's outstanding Airport Revenue Bonds, Series 2004A (the "Series 2004A Bonds") and Airport Revenue Bonds, Series 2004B (the "Series 2004B Bonds") will be in the best interests of the City and of the Airport; and

WHEREAS, this City Council is the applicable elected representative within the meaning of Section 147(f) of the Internal Revenue Code (the "Code") required to approve the issuance of Notes, the interest on which may be a preference item for purposes of federal individual and corporate alternative minimum taxes; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council, following notice duly given, on March 25, 2008 held a public hearing regarding the City's expansion of its commercial paper program, including the issuance of Notes as part of a plan of finance to refund the outstanding Series 2004A and Series 2004B Bonds and to finance and refinance costs of Airport facilities and now desires to authorize the increase in the maximum aggregate principal amount of Notes that may be issued and outstanding at any one time under Resolution No. 69200, as amended, and to approve the issuance of Series B Notes to refund the Series 2004A and Series 2004B Bonds and to pay costs associated therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

Section 1. All of the above recitals are true and correct and this Council hereby so finds and determines.

Section 2. Resolution No. 69200, as amended by Resolution No. 73252, and by Resolution No. 73589 and by Resolution No. 74116, is hereby further amended by deleting the reference to the amount "\$450,000,000" appearing therein and substituting therefor the amount "\$600,000,000."

Section 3. Resolution No. 69200, as amended by Resolution No. 73252, and by Resolution No. 73589 and by Resolution No. 74116, is hereby further amended by deleting the text set forth in Section 3 (b) because the delegation of authority to the Director of Finance or the Director's authorized designee as set forth in Section 3 (b) of Resolution No. 69200, as amended, will be addressed in a separate resolution of this City Council.

Section 4. The issuance by the City of the Notes in a maximum principal amount outstanding at any one time of \$600,000,000 to finance and refinance costs of Airport facilities that are included in or are consistent with the Airport Master Plan, approved on June 10, 1997 and as subsequently amended (the "Facilities"), is hereby approved. All of the Facilities will be located at the Airport or on property formerly known as the "FMC Property" leased by the City for Airport purposes located at 1125 Coleman Avenue and 328 West Brokaw Road in the Cities of San José and Santa Clara, California, respectively. Without limiting the generality of Section 2 above, the issuance from time to time of the Series A Notes, the Series B Notes and the Series C Notes is hereby ratified, and the issuance from time to time of the Series D Notes, the Series E Notes and the Series F Notes is hereby authorized and approved. Notes may be issued from time to time to finance or refinance costs of the Facilities (including capitalized interest), to refund the Series 2004A Bonds and the Series 2004B Bonds and to refund or pay debt service on other obligations of the City issued to finance or refinance costs of the Facilities.

Section 5. The issuance of a portion of the Notes to refund all of the outstanding Series 2004A Bonds and Series 2004B Bonds is hereby authorized and approved, and the Director of Finance of the City and the other officers and employees of the City are hereby authorized and directed to take such actions as shall be necessary or advisable to effect the refunding of the Series 2004A Bonds and the Series 2004B Bonds.

Section 6. It is the purpose and intent of this Council that this Resolution constitutes approval of the Notes by the applicable elected representative of the issuer of the Notes and the applicable elected representative of the governmental unit having jurisdiction over the area in which the financed improvements are located, in accordance with Section 147(f) of the Code.

Section 7. All actions heretofore taken by the officers and agents of the City with respect to the sale, issuance and delivery of the Notes and the other transactions

authorized and contemplated herein are hereby approved, confirmed and ratified, and the officers and employees of the City are hereby authorized and directed to do any and all things they may deem necessary or advisable to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. The Director of Finance of the City and the other officers and employees of the City are hereby authorized and directed to execute and deliver any and all certificates and representations, including signature certificates, no-litigation certificates, arbitrage bond certificates and tax certificates necessary and desirable to accomplish the transactions set forth above.

Section 8. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any remaining provisions hereof.

Section 9. Resolution No. 69200 as amended is hereby ratified and confirmed in all other respects and shall continue in full force and effect in accordance with the terms and provisions thereof, as heretofore amended and supplemented, and as amended and supplemented by this Resolution. This Resolution shall take effect from and after its adoption.

ADOPTED this 25th day of March, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDI, NGUYEN, OLIVERIO, PYLE, REED

NOES: NONE.

ABSENT: WILLIAMS.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

CITY CLERK'S CERTIFICATE

I, Lee Price, City Clerk of the City of San José, hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of said City duly, regularly and legally held at the San José City Hall, 200 E. Santa Clara Street, San José, California, on March 25, 2008 and entered into the minutes thereof, of which meeting all of said members of the Council had due notice and at which a quorum thereof were present.

At said meeting said resolution was adopted by the following vote:

Ayes: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE, REED

Noes: NONE.

Absent: WILLIAMS.

Disqualified: NONE.

An agenda of said meeting was posted at least 72 hours before said meeting at 200 E. Santa Clara Street, San José, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

I have carefully compared the foregoing with the original synopsis of said meeting on file and of record in my office. Said original resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: March 25, 2008.

City Clerk of the City of San José, California